

1 CHRISTINA SULLIVAN
2 CA B# 328326
3 HACKING IMMIGRATION LAW, LLC
4 10900 Manchester Road, Suite 203
5 St. Louis, MO 63122
6 Telephone: (314) 961-8200
7 Facsimile: (314) 961-8201
8 E-mail: mailto:csullivan@hackingimmigrationlaw.com
9 csullivan@hackingimmigrationlaw.com

10 ATTORNEYS FOR PLAINTIFF: REEM FAHED HUBBI

11 **IN THE UNITED STATES DISTRICT COURT FOR THE
12 EASTERN DISTRICT OF CALIFORNIA**

13 REEM FAHED HUBBI, a U.S. Citizen,

14 10312 Ensemble Way
15 Elk Grove, CA 95757

Case No. 2:22-cv-00657-TLN-KJN

16 Plaintiff,

17 v.
18 UNITED STATES DEPARTMENT OF
19 STATE,

20 Serve: Executive Office
21 Office of the Legal Adviser
22 Suite 5.600
23 600 19th St. NW
24 Washington, DC 20522

25 U.S. EMBASSY IN AMMAN, JORDAN,

26 Serve: Executive Office
27 Office of the Legal Adviser
28 Suite 5.600

ANTONY BLINKEN, United States Secretary
of State,

Serve: Executive Office
Office of the Legal Adviser
Suite 5.600

600 19th St. NW
Washington, DC 20522

and;

HENRY T. WOOSTER, Ambassador of the
United States at the U.S. Embassy in Amman,
Jordan,

Serve: Executive Office
Office of the Legal Adviser
Suite 5.600
600 19th St. NW
Washington, DC 20522

Defendants.

**FIRST AMENDED COMPLAINT IN THE NATURE OF MANDAMUS ARISING FROM
DEFENDANTS' REFUSAL TO ADJUDICATE PLAINTIFF'S IMMIGRANT VISA
APPLICATION**

Plaintiff Reem Fahed Hubbi respectfully requests that this Honorable Court issue a writ of mandamus compelling Defendants to adjudicate a long-delayed immediate relative visa application.

PARTIES

1. Plaintiff Reem Fahed Hubbi is a citizen of the United States.
 2. Plaintiff's father Mahmoud Fahed is a citizen of Syria, currently residing in Syria.
 3. Defendant Department of State (hereinafter sometimes referred to as "the DOS") is the
of the United States that is responsible for communicating with the DHS and managing Defendant
Embassy of the United States in Amman, Jordan, and which is responsible for implementing the
igrant visa provisions of the law.
 4. Defendant Embassy of the United States in Amman, Jordan, (hereinafter sometimes
referred to as "the Embassy") is a component of the DOS that is responsible for processing immigrant
applications and implementing the immigrant and non-immigrant visa provisions of the law.

1 5. Defendant Antony Blinken, the U.S. Secretary of State, is the highest ranking official
2 within the DOS. Blinken is responsible for the implementation of the INA and for ensuring compliance
3 with applicable federal laws, including the APA. Blinken is sued in his official capacity as an agent of
4 the government of the United States.

5 6. Defendant Henry Wooster, Ambassador of the Embassy of the United States in Amman,
6 Jordan. They are being sued in an official capacity as an agent of the government of the United States.
7

JURISDICTION AND VENUE

8 7. This Honorable Court has federal question jurisdiction over this cause pursuant to 28
9 U.S.C. § 1331, as it raises claims under the Constitution of the United States, the INA, 8 U.S.C. § 1101
10 et seq., and the APA, 5 U.S.C. § 701 et seq, in conjunction with the Mandamus Act, 28 USC § 1361.

12 8. Venue is proper pursuant to 28 U.S.C. § 1391(e)(1) because (1) Defendants are agencies
13 of the United States or officers or employees thereof acting in their official capacity or under color of
14 legal authority; (2) no real property is involved in this action, and; (3) Plaintiff resides in this district.
15

16 9. This Honorable Court is competent to adjudicate this case, notwithstanding the doctrine
17 of consular non-reviewability, *see United States ex rel. Knauff v. Shaughnessy*, 338 U.S. 537 (1950),
18 because Defendants have not made any decision in regard to 's visa application.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

21 10. Reem Fahed Hubbi is the daughter of Mahmoud Fahed and is the immediate relative visa
22 petitioner for Mahmoud Fahed's immigrant visa application.

23 11. Under federal immigration law, USCIS is authorized to approve an alien relative visa
24 application filed by a U.S. citizen or lawful permanent resident status and to issue an immigrant visa to
25 allow the alien relative to enter the U.S. and obtain lawful permanent resident status.
26

27 12. Mahmoud Fahed is a citizen of Syria. Syria is a predominantly Muslim country.
28

1 13. Reem Fahed Hubbi filed a visa petition for Mahmoud Fahed with the USCIS on December
2 19, 2019.

3 14. Plaintiff paid, and Defendants accepted, all applicable filing and visa fees.

4 15. USCIS purportedly approved Plaintiff's I-130 immediate relative visa petition on May 21,
5 2020.

16. The case should have then been sent to the National Visa Center (NVC), a part of the U.S.
7 Department of State for visa processing. The NVC assigned Case Number DMS2020733001 to this case.
8
9 Upon information and belief, the NVC completed its processing of the case and sent it to the U.S.
10 Embassy in Amman, Jordan, for an interview.

11 17. The State Department conducted Mahmoud Fahed's visa interview on or about December
12 14, 2021. Since that time, the agency has refused to issue a decision on this case.

13 18. Reem Fahed Hubbi has made repeated attempts to obtain a decision in this matter without
14 involving this honorable Court. Plaintiff has contacted the consulate multiple times. This has led
15 nowhere.

FIRST CLAIM FOR RELIEF
(Agency Action Unlawfully Withheld and Unreasonably Delayed)

For their first claim for relief against all Defendants, Plaintiff alleges and states as follows:

19. Plaintiff realleges and incorporates by reference the foregoing paragraphs as though fully
20 set out herein.
21

22 20. The APA requires that “[w]ith due regard for the convenience and necessity of the parties
23 or their representatives and within a reasonable time, each agency shall proceed to conclude a matter
24 presented to it.” 5 U.S.C. § 555(b). Section 555(b) creates a non-discretionary duty to conclude agency
25 matters. *Litton Microwave Cooking Prods. v. NLRB*, 949 F.2d 249, 253 (8th Cir. 1991). A violation of
26 this duty is a sufficient basis for mandamus relief.

1 21. The APA permits this Honorable Court to “compel agency action unlawfully withheld or
2 unreasonably delayed.” 5 U.S.C. § 706(1).

3 22. The Defendants have refused to adjudicate Plaintiff’s application and to issue the
4 requested visa application.

5 23. The DOS regularly works with the DHS when carrying out background and security
6 investigations that are delayed by administrative processing.

7 24. The DHS has a policy, known as the “Controlled Application Review and Resolution
8 Program” (hereinafter sometimes referred to as “the CARRP”) that intentionally delays the applications
9 of applicants such as due to security concerns.

11 25. On information and belief, Plaintiff alleges that the Defendants are intentionally delaying
12 a response to the DOS in regard to Mahmoud Fahed’s visa application pursuant to the CARRP program.
13 Plaintiff alleges that this delay is due to Fahed Mahmoud being from a predominantly Muslim country.

14 26. Upon information and belief, Plaintiff alleges that the USCIS and the DOS are and have
15 been complicit in the delay in processing Mahmoud Fahed’s visa application.

17 27. Since 2008, the Defendants have used CARRP—an internal policy that has neither been
18 approved by Congress nor subjected to public notice and comment—to investigate and adjudicate
19 applications deemed to present potential “national security concerns.” CARRP prohibits USCIS field
20 officers from approving an application with a potential “national security concern,” instead directing
21 officers to deny the application or delay adjudication—often indefinitely—in violation of the INA.

23 28. CARRP’s definition of “national security concern” is far more expansive than the security-
24 related ineligibility criteria for immigration applications set forth by Congress in the INA. Rather,
25 CARRP identifies “national security concerns” based on deeply-flawed and expansive government
26 watchlists, and other vague and overbroad criteria that bear little, if any, relation to the security-related
27 statutory ineligibility criteria. The CARRP definition casts a net so wide that it brands innocent, law-
28

abiding residents, like Mahmoud Fahed—none of whom pose a security threat—as “national security concerns” on account of innocuous activity and associations, and characteristics such as national origin.

3 29. Although the total number of people subject to CARRP is not known, USCIS data reveals
4 that between FY2008 and FY2012, more than 19,000 people from twenty-one Muslim-majority countries
5 or regions were subjected to CARRP.

6 30. Plaintiff alleges that Mahmoud Fahed's application has been in administrative processing
7 beyond a reasonable time period for completing administrative processing of her visa application.

9 31. The combined delay and failure to act on Mahmoud Fahed's immigrant visa application
10 is attributable to the failure of Defendants to adhere to their legal duty to avoid unreasonable delays under
11 the INA and the applicable rules and regulations.

32. There are no alternative adequate or reasonable forms of relief available to Plaintiff.

33. Plaintiff has exhausted all available administrative remedies in pursuit of a resolution of
34. this matter, including repeatedly requesting the processing of their case.

SECOND CLAIM FOR RELIEF
(Violation of Right to Due Process of Law)

For their second claim for relief against all Defendants, Plaintiff alleges and states as follows:

34. Plaintiff realleges and incorporates by reference the foregoing paragraphs as though fully
19 set out herein.
20

35. The right to fundamental fairness in administrative adjudication is protected by the Due
Process Clause of the Fifth Amendment to the United States Constitution. Plaintiff may seek redress in
this Court for Defendants' combined failures to provide a reasonable and just framework of adjudication
in accordance with applicable law.

25 36. The combined delay and failure to act by Defendants has violated the due process rights
26 of Plaintiff.

1 37. The combined delay and failure to act by Defendants has irrevocably harmed Plaintiff by
2 causing family separation between Plaintiff and Mahmoud Fahed, among other ways.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff Reem Fahed Hubbi requests the following relief:

1. That this Honorable Court assume jurisdiction over this action;
 2. Enter a judgment declaring that (a) CARRP violates the INA and its implementing regulations; Article 1, Section 8, Clause 4 of the United States Constitution; the Fifth Amendment to the United States Constitution; and the APA; and (b) Defendants violated the APA by adopting CARRP without promulgating a rule and following the process for notice and comment by the public;
 3. Enjoin Defendants, their subordinates, agents, employees, and all others acting in concert with them from applying CARRP to the processing and adjudication of Plaintiff's immigration benefit applications;
 4. Order Defendants to rescind CARRP because they failed to follow the process for notice and comment by the public;
 5. That this Honorable Court issue a writ of mandamus compelling Defendants to promptly complete all administrative processing within sixty days;
 6. That this Honorable Court take jurisdiction of this matter and adjudicate Mahmoud Fahed's immigrant visa pursuant to this Court's declaratory judgment authority;
 7. That this Honorable Court issue a writ of mandamus compelling Defendants to issue an immigrant visa to Mahmoud Fahed;
 8. That this Honorable Court issue a writ of mandamus compelling Defendants to explain to Plaintiff the cause and nature of the delay and inform Plaintiff of any action that may be taken to expedite processing of the visa application;
 9. Attorney's fees, legal interests, and costs expended herein, pursuant to the Equal Access

1 to Justice Act, 28 U.S.C. § 2412;

2 10. Such other and further relief as this Honorable Court may deem just and proper.

3
4 **RESPECTFULLY SUBMITTED**

5 **April 14, 2022**

6
7 /s/Christina Sullivan

Christina Sullivan
CA B# 328326

8 HACKING IMMIGRATION LAW, LLC

9 10900 Manchester Road, Suite 203
St. Louis, MO 63122

10 Telephone: (314) 961-8200
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